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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,785	04/08/2002	Heikki Kallio	TUR-124	1916

7590 11/09/2004

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EXAMINER

KOHNER, MATTHEW J

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 11/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/018,785

Applicant(s)

KALLIO ET AL.

Examiner

Matthew J Kohner

Art Unit

3653

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 8,10,11 and 13-16.


Claim(s) withdrawn from consideration: \_\_\_\_\_.


8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

Applicant has argued that the claimed invention is allowable over the prior art because the, "Patent Office has failed to demonstrate that one of ordinary skill in the art would be motivated to modify Bjarno by replacing its dispersive infrared spectrometer with a Fourier Transform infrared spectrometer for high-speed, on-line analysis of an animal carcass (Applicants Remarks, Page 6)."

Examiner disagrees. The Examiner's position is that Bjarno teaches the claimed invention except for the type of infrared spectroscopy (IR). In other words the only difference between the claimed invention and Bjarno is that the claimed invention uses Fourier Transform IR and Bjarno teaches dispersive IR. Examiner cites the Sleeter reference for the purpose of demonstrating it was well known in the art to use Fourier Transform spectroscopy (Col. 3, lines 19+) in analyzing products. Examiner further notes that Sleeter discloses his method provides "rapid quantitative and qualitative analysis ... (Col. 4, lines 5+)" "The time for such an analysis is much less than 1 minute ... (Col. 4, lines 1+)" Bjarno teaches his method is directed toward "on-line utilisation [sic.] in slaughterhouses ... (Col. 6, lines 50+)." Therefore, speed of analysis is a important factor because determinations need to be made quickly in an on-line environment. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify Bjarno's method of spectroscopy with another well known, quick method of spectroscopy such as the FT-IR spectroscopy.

In footnote 1 of the Applicants' remarks, applicants state they, "have confirmed that the Perkin-Elmer 580 is a dispersive spectrophotometer which is unable to perform FT-IR analysis." Examiner requests that Applicants make of record the evidence on which they are relying for this statement.

  
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11/4/04